THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL Nos.1993 of 1999 and 811 of 2000

15th September 2005

1.WRIT APPEAL NO.1993 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 09.09.1999 in W.P.NO.5952 OF 1999 on the file of the High Court.)

Between:

The Commissioner for Cooperation and Registrar of Coop.Societies, A.P., Hyderabad.

...APPELLANT/2nd RESPONDENT

AND

1. M.Nageswara Rao.

...RESPONDENT/PETITIONER

2. The Ongole Cooperative Bank Ltd., Rajapanagal Road, Ongole, rep.by its President.

…RESPONDENT/1st RESPONDENT

2.WRIT APPEAL NO.811 of 2000

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 09.09.1999 in W.P.NO.5952 OF 1999 on the file of the High Court.)

Between:

The Ongole Cooperative Bank Ltd., Rajapanagal Road, Ongole, rep.by its President.

…APPELLANT/1st RESPONDENT

AND

1. M.Nageswara Rao, S/o.Venkatasubbaiah, 43 years, Daily Deposit Collection Agent, The Ongole Cooperative Bank Ltd., Rajapanagal Road, Ongole, R/o.Ongole, Prakasam District.

…RESPONDENT/WRIT PETITIONER

2. The Commissioner for Cooperation and Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.

…RESPONDENT/2nd RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL Nos.1993 of 1999 and 811 of 2000

COMMON JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard the learned Government Pleader for Agriculture and Sri M.Ravindranath Reddy, the learned counsel appearing on behalf of the appellants and Sri T.Rajendra Prasad, the learned counsel appearing on behalf of the respondents.

These two appeals are at the instance of respondent Nos.1 and 2 as against the order dated 09.09.1999 in W.P.No.5952 of 1999, wherein the first respondent sought a mandamus to declare the action of the respondents/Bank and the Commissioner for Cooperation in not regularizing him in spite of the proposals sent on 18.09.1991.

In this case, the respondent/writ petitioner was initially appointed as a daily deposit collection agent with the appellant in the first case on 21.10.1982. He passed M.A. as a private candidate in the year 1985 from Andhra University and acquired B.Ed., degree through correspondence course and passed B.L., degree in the year 1995 from Nagarjuna University. He also passed typewriting lower grade in English in the

year 1981. Subsequently, he filed several representations to regularize his appointment, on the basis of which the Board Of Directors, the appellants in this case passed resolution on 28.08.1991 to create a post of attender and relax the conditions with regard to the qualifications and the reservation. In spite of the same, no action was taken. Hence the Writ Petition.

On contest by both the respondents, who filed separate counter affidavits, they have raisen a plea that the writ petitioner was not appointed as an employee nor there is any post as such as collection agent and therefore, considering his case for regularization is not sustainable. However the resolution was passed on 28.08.1991. Considering these objections and also the submissions made on either side, the learned Judge allowed the Writ Petition directing the appellant in the second case to pass appropriate orders in terms of the resolution of the Board of Directors dated 28.08.1991.

Having heard the counsel on either side and on perusal of the material available on record, the only question that rises for consideration is as to whether the petitioner is entitled to consider for such appointment to the post of attender.

As already stated, there is no dispute to the fact that he was appointed as collection agent and also the resolution passed by the Board of Directors on 28.08.1981 or whether there was due recommendation in terms of twin aspects seeking relaxation both as to the qualification and also the reservation. Admittedly, no action was taken resail the resolution of the Board of Directors. Now, the said resolution is set aside in terms of the procedure as contemplated. As long as it

remains in force, the same necessarily contemplates legitimate expectation on the petitioner to seek its enforcement and accordingly, the learned Judge has rightly directed the authorities to consider his case in terms of the said resolution. Though the petitioner has sought for declaration, however, the resolution was passed only for considering his case for appointment after giving relaxation as contemplated therein. In the circumstances, we do not find any merits.

The two appeals are accordingly dismissed. No costs.

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(B.PRAKASH RAO, J)

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(DR G.YETHIRAJULU, J)

15th September 2005

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